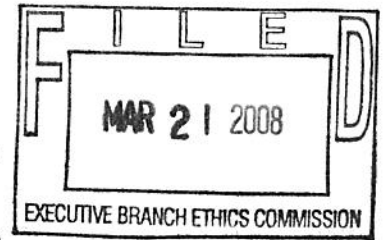


**COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
AGENCY NO. 07-113
ADMINISTRATIVE ACTION NO. 08-EBEC-0049**



EXECUTIVE BRANCH ETHICS COMMISSION

COMPLAINANT

vs.

RECOMMENDED ORDER OF DEFAULT

DENNIS R. MILLS

RESPONDENT

* * * * *

THIS MATTER came before the Hearing Officer on February 25, 2008, at 9:00 a.m., ET, for a telephonic Prehearing Conference held pursuant to KRS 13B.070 and scheduled by Order Assigning Case, Setting Filing Requirements, and Scheduling Prehearing Conference dated February 8, 2008. The Respondent, Dennis R. Mills, did not appear because neither the Commission nor the Hearing Officer had a phone number where the Respondent could be reached and he had not contacted the Executive Branch Ethics Commission's or the Division of Administrative Hearings' offices. The Assignment Order that set this prehearing conference directed the Respondent to notify the Division of Administrative Hearings by February 22, 2008, of a telephone number where he could be reached for the prehearing conference.

A Show Cause Order dated February 25, 2008, directed the Respondent to appear by telephone on March 3, 2008, at 1:30 p.m., ET, and show cause why a default order should not be entered in favor of the Commission. The Show Cause Order also ordered the Respondent to contact the Hearing Officer's staff at (502) 696-5441 and give them a phone number where he could be reached for the telephonic show cause conference set in the order, and also give them a current address if his old address had changed. The Show Cause Order also warned the

Respondent that if he failed to comply a recommended order would be issued finding him in default and recommending that a final order be issued against him pursuant to KRS 13B.080(6). The Respondent failed to contact the Division with a phone number where he could be reached, failed to contact the Commission, and failed to otherwise appear at the show cause telephone conference.

The return receipt for the Commission's certified mailing of the Initiating Order and Complaint in this case—which was sent to 1550 Trent Blvd., Lexington, Kentucky 40515, Respondent's last-known address—was returned to the Commission on December 21, 2007, marked "Undeliverable."

This case concerns Respondent's violation of KRS 11A.040(1), 11A.020(2), and 11A.020(1)(c) and (d) because he was employed by an engineering firm that did business with the Transportation Cabinet while he was a full-time employee of the Cabinet and without approval of his appointing authority. The Commission can impose a civil penalty of up to \$5,000 for each violation under KRS 11A.100(3)(e). The Commission reported the customary civil penalty for the violations committed by the Respondent is \$1,000 for each violation.

Therefore, being duly advised, IT IS HEREBY RECOMMENDED that the Executive Branch Ethics Commission enter a final order as follows:

1. Dennis R. Mills is in default pursuant to KRS 13B.080(6).
2. Dennis R. Mills violated KRS 11A.040(1), 11A.020(2), and 11A.020(1)(c) and (d) .
3. Within 60 days of the entry of the final order, Dennis R. Mills shall pay a civil penalty of \$1,000 for each of the three violations for a total civil penalty of \$3,000.

NOTICE TO PARTIES OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4):

a copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head.

Pursuant to KRS 13B.120(2):

the agency head may accept this recommended order and adopt it as the agency's final order, or it may reject or modify, in whole or in part, the recommended order, or it may remand the matter, in whole or in part, to the hearing officer for further proceedings as appropriate.

Pursuant to KRS 13B.120(4):

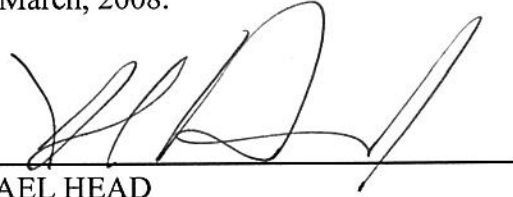
the agency head shall render a final order in an administrative hearing within ninety (90) days after the hearing officer submits a recommended order to the agency head, unless the matter is remanded to the hearing officer for further proceedings.

Pursuant to KRS 13B.140:

All final orders of an agency shall be subject to judicial review in accordance with the provisions of KRS Chapter 13B. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business.

Pursuant to KRS 23A.010(4), "Such review [by the Circuit Court] shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that summons must be served when filing an appeal petition in the Circuit Court.

SO RECOMMENDED this 19 day of March, 2008.

A handwritten signature in black ink, appearing to read 'M. Head', is written over a horizontal line.

MICHAEL HEAD
HEARING OFFICER
DIV. OF ADMINISTRATIVE HEARINGS
OFFICE OF THE ATTORNEY GENERAL
1024 CAPITAL CENTER DR., STE. 200
FRANKFORT, KENTUCKY 40601-8204
(502) 696-5442
(502) 573-1009 - FAX

CERTIFICATE OF SERVICE

I hereby certify that the original of this RECOMMENDED ORDER was mailed this 20th day of March, 2008, by messenger mail, to:

DAPHNE CRISCILLIS
EXECUTIVE ASSISTANT
EXECUTIVE BRANCH ETHICS COMM
THE VEST-LINDSEY HOUSE
401 WAPPING ST
FRANKFORT KY 40601

for filing; and a true copy was sent by first-class mail, postage prepaid, to:

DENNIS R MILLS
1550 TRENT BLVD
LEXINGTON KY 40515

DENNIS R MILLS
303 S ALLISON AVE
BARBOURVILLE KY 40906

DENNIS R MILLS
PO BOX 1660
BARBOURVILLE KY 40906

and, by messenger mail, to:

JOHN R STEFFEN
GENERAL COUNSEL
EXECUTIVE BRANCH ETHICS COMM
THE VEST-LINDSEY HOUSE
401 WAPPING ST
FRANKFORT KY 40601


DOCKET COORDINATOR

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